

233 South 13th Street, Suite 1100
Lincoln, Nebraska 68508
Phone: (402) 474-1555
Fax: (402) 474-2946
www.nebankers.org



March 12, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551
E-mail: regs.comments@federalreserve.gov

RE: Regulation CC:
Docket No. R-1176 (Availability of Funds and Collection of Checks)

Dear Ms. Johnson:

I write on behalf of the Nebraska Bankers Association (NBA) to comment on the Federal Reserve Board of Governors proposed rule regarding Availability of Funds and Collection of Checks. The NBA is a trade association representing 261 of Nebraska's 263 commercial banks and nine of the 16 savings and loan institutions in the state of Nebraska.

While generally supportive of the provisions of the proposed rule which would implement the recently enacted Check 21 Act, our comments are focused on your request for comment on proposed changes to the treatment of remotely-created consumer items (*i.e.*, "demand drafts").

Nebraska is one of the approximately 15 states which have implemented revisions to the Uniform Commercial Code (UCC) which establish a limited rejection of the Price v. Neal doctrine. These revisions allow the payee bank, in circumstances involving "demand drafts," to utilize a warranty claim to absolve itself of responsibility for honoring an unauthorized item. Support for this approach is based upon the premise that a depository bank is in the best position to monitor and know its customer and thereby limit and control the adverse impacts associated with this type of account fraud.

While we would encourage the incorporation of these UCC revisions into Regulation CC, we would strongly encourage the Board to expand the National Conference of Commissioners on Uniform State Laws (NCCUSL) approach. The changes being promoted by NCCUSL only apply to "remotely-created consumer items." Fraudulent activity involving "demand drafts," is not limited solely to consumer items. As a result, the states which have implemented revisions to the UCC regarding "demand drafts," have made their laws applicable to both consumer and commercial accounts. We firmly believe this to be the better approach and would respectfully request that the final rule provide warranty protections for depository banks which apply to all types of deposit accounts.

We appreciate the opportunity to provide input on this proposal and trust that our views will receive proper consideration.

Sincerely,

A handwritten signature in cursive script that reads "George Beattie".

George Beattie
President
george.beattie@nebankers.org

/smi